

U.S.C. 1811 *et seq.* or any provision of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78a, *et seq.*, which is administered by the FDIC, or of any rule or regulation promulgated thereunder; or

(ii) Found by any court of competent jurisdiction (whether by consent, default, or summary judgment, or after trial) in any action brought by the OTS or FDIC to which he is a party or found by the OTS or FDIC (whether by consent, default, upon summary judgment or after hearing) in any administrative proceeding in which the OTS or FDIC is a complainant and he is a party, to have willfully committed, caused or aided or abetted a violation of any provision of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1461 *et seq.*, the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811 *et seq.* or any provision of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78a, *et seq.*, which is administered by the OTS or FDIC, or of any rule or regulation promulgated thereunder.

(2) An order of temporary suspension shall become effective when served by certified or registered mail directed to the last known business or residential address of the person involved. No order of temporary suspension shall be entered by the FDIC pursuant to paragraph (c)(1) of this section more than three months after the final judgment or order entered in a judicial or administrative proceeding described in paragraphs (c)(1)(i) or (ii) of this section has become effective and all review or appeal procedures have been completed or are no longer available.

(3) Any person temporarily suspended from appearing and practicing before the OTS or FDIC in accordance with paragraph (c)(1) of this section may, within 30 days after service upon him of the order of temporary suspension, petition the FDIC to lift such suspension. If no petition is received by the FDIC within those 30 days, the suspension shall become permanent.

(4) Within 30 days after the filing of a petition in accordance with paragraph (c)(3) of this section, the FDIC shall either lift the temporary suspension or set the matter down for hearing at a time and place to be designated by the

FDIC, or both. After opportunity for hearing, the FDIC may censure the petitioner or may suspend the petitioner from appearing or practicing before the FDIC temporarily or permanently. In every case in which the temporary suspension has not been lifted, the hearing and any other action taken pursuant to this paragraph (c)(4) shall be expedited by the FDIC in order to ensure the petitioner's right to address the allegations against him.

(5) In any hearing held on a petition filed in accordance with paragraph (c)(3) of this section, a showing that the petitioner has been enjoined or has been found to have committed, caused or aided or abetted violations as described in paragraph (c)(1) of this section, without more, may be a basis for suspension or debarment; that showing having been made, the burden shall then be on the petitioner to show why he should not be censured or be temporarily or permanently suspended or debarred. A petitioner will not be permitted to contest any findings against him or any admissions made by him in the judicial or administrative proceedings upon which the proposed censure, suspension or debarment is based. A petitioner who has consented to the entry of a permanent injunction or order as described in paragraph (c)(1)(i) of this section, without admitting the facts set forth in the complaint, shall nevertheless be presumed for all purposes under this section to have been enjoined or ordered by reason of the misconduct alleged in the complaint.

§ 390.94 Reinstatement.

(a) Any person who is suspended from practicing before the OTS or FDIC under § 390.93(a) or (c) of may file an application for reinstatement at any time. Denial of the privilege of practicing before the FDIC shall continue unless and until the applicant has been reinstated by order of the FDIC for good cause shown.

(b) Any person suspended under paragraph § 390.93(b) shall be reinstated by the FDIC, upon appropriate application, if all of the grounds for application of the provisions of § 390.93(b) subsequently are removed by a reversal of the conviction or termination of the suspension, disbarment or revocation.

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An application for reinstatement on any other grounds by any person suspended under § 390.93(b) may be filed at any time. Such application shall state with particularity the relief desired and the grounds therefor and shall include supporting evidence, when available. The applicant shall be accorded an opportunity for an informal hearing in the matter, unless the applicant has waived a hearing in the application and, instead, has elected to have the matter determined on the basis of written submissions. Such hearing shall utilize the procedures established in §§ 390.12 and 390.16(a). However, such suspension shall continue unless and until the applicant has been reinstated by order of the FDIC for good cause shown.

§ 390.95 Duty to file information concerning adverse judicial or administrative action.

Any person appearing or practicing before the FDIC who has been or is the subject of a conviction, suspension, debarment, license revocation, injunction or other finding of the kind described in § 390.93(b) or (c) in an action not instituted by the OTS or FDIC shall promptly file a copy of the relevant order, judgment or decree with the Executive Secretary together with any related opinion or statement of the agency or tribunal involved. Any person who fails to so file a copy of the order, judgment or decree within 30 days after the entry of the order, judgment or decree, or the date such person initiates practice before the FDIC, for that reason alone may be disqualified from practicing before the FDIC until such time as the appropriate filing shall be made, but neither the filing of these documents nor the failure of a person to file them shall in any way impair the operation of any other provision of this subpart.

§ 390.96 Proceeding under this subpart.

(a) All hearings required or permitted to be held under § 390.93(a) and (c) of this subpart shall be held before a presiding officer utilizing the procedures established in the rules of practice and procedure in adjudicatory proceedings under subpart C of this part.

(b) All hearings held under this subpart shall be closed to the public unless the FDIC on its own motion or upon the request of a party otherwise directs.

(c) Any proceeding brought under any section of this subpart shall not preclude a proceeding under any other section of this subpart or any other part of the FDIC's regulations.

§ 390.97 Removal, suspension, or debarment of independent public accountants and accounting firms performing audit services.

(a) *Scope.* This subpart, which implements section 36(g)(4) of the Federal Deposit Insurance Act (FDIA), (12 U.S.C. 1831m(g)(4)), provides rules and procedures for the removal, suspension, or debarment of independent public accountants and their accounting firms from performing independent audit and attestation services required by section 36 of the FDIA for insured State savings associations.

(b) *Definitions.* As used in this section, the following terms have the meaning given below unless the context requires otherwise:

Accounting firm. The term *accounting firm* means a corporation, proprietorship, partnership, or other business firm providing audit services.

Audit services. The term *audit services* means any service required to be performed by an independent public accountant by section 36 of the FDIA and part 363, including attestation services. Audit services include any service performed with respect to a savings and loan holding company of a State savings association that is used to satisfy requirements imposed by section 36 of the FDIA or part 363 on that State savings association.

Independent public accountant. The term *independent public accountant* means any individual who performs or participates in providing audit services.

(c) *Removal, suspension, or debarment of independent public accountants.* The FDIC may remove, suspend, or debar an independent public accountant from performing audit services for State savings associations that are subject to section 36 of the FDIA if, after service